

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION**

PHYLLIS SAXON, SANDRA  
IVERSON, and OLD WEST  
SALOON, LLC,

Plaintiffs,

vs.

CITY OF DILLON, MONTANA, a  
body politic, DILLON POLICE  
CHIEF PAUL CRAFT, in his  
individual and official capacity,  
DILLON POLICE CHIEF DONALD  
GUIBERSON, in his individual and  
official capacity, and OFFICER  
JOSEPH HORROCKS, in his  
individual and official capacity and  
JOHN DOES 1-X,

Defendants.

No. CV 19-16-BU-SEH

**ORDER**

1. On September 24, 2019, Plaintiffs filed Plaintiffs' Revised Preliminary Pretrial Statement,<sup>1</sup> which:

- a. Identified 21 persons as persons likely to have discoverable information that Plaintiffs may use in support of their claims or defenses; and
- b. Identified certain documents, electronically stored information, and tangible things as responsive to Plaintiffs'

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<sup>1</sup> Doc. 18.

Fed. R. Civ. P. 26(a)(1)(A)(ii) obligation to provide “a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses.”<sup>2</sup>

A “list of documents, electronically stored information and tangible items” identified in Plaintiffs’ Revised Preliminary Pretrial Statement is attached as “Exhibit A.”

2. On October 28, 2019, Plaintiffs filed a Supplement to Plaintiffs’ Initial Disclosure (“Supplement”),<sup>3</sup> which:

a. Identified 13 persons not previously identified by Plaintiffs as persons likely to have discoverable information that Plaintiffs may use in support of their claims or defenses.

No documents, electronically stored information, and tangible things that Plaintiffs may use in support of their claims or defenses, not previously identified, were disclosed with the Supplement.

3. On December 19, 2019, Plaintiffs filed a Second Supplement to Plaintiffs’ Initial Disclosure (“Second Supplement”),<sup>4</sup> which:

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<sup>2</sup> Fed. R. Civ. P. 26(a)(1)(A)(ii).

<sup>3</sup> Doc. 32.

<sup>4</sup> Doc. 36.

- a. Identified one additional person not previously identified by Plaintiffs as a person likely to have discoverable information that Plaintiffs may use in support of their claims or defenses.

No documents, electronically stored information, and tangible things that Plaintiffs may use in support of their claims or defenses, not previously identified, were disclosed with the Second Supplement.

4. On April 20, 2020, Plaintiffs filed a Third Supplement to Plaintiffs' Initial Disclosure ("Third Supplement"),<sup>5</sup> which:

- a. Identified two additional persons not previously identified by Plaintiffs as persons likely to have discoverable information that Plaintiffs may use in support of their claims or defenses; and
- b. Identified certain documents as responsive to Plaintiffs' Fed. R. Civ. P. 26(a)(1)(A)(ii) obligation to provide "a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses."<sup>6</sup>

A "list of documents, electronically stored information and tangible items" identified in the Third Supplement is attached as "Exhibit B."

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<sup>5</sup> Doc. 66.

<sup>6</sup> Fed. R. Civ. P. 26(a)(1)(A)(ii).

5. On April 22, 2020, Plaintiffs filed a Brief in Support of First Amended Motion for Leave to Supplement Will Call – May Call Witness List (“Brief”),<sup>7</sup> which:

- a. Identified two additional persons not previously identified by Plaintiffs as persons likely to have discoverable information that Plaintiffs may use in support of their claims or defenses; and
- b. Identified certain documents as responsive to Plaintiffs’ Fed. R. Civ. P. 26(a)(1)(A)(ii) obligation to provide “a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses.”<sup>8</sup>

A list of certain written statements and anticipated exhibits identified in the Brief is attached as “Exhibit C.”

6. On May 14, 2020, Plaintiffs filed a Fourth Supplement to Plaintiffs’ Initial Disclosure (“Fourth Supplement”),<sup>9</sup> which:

- a. Identified one additional person not previously identified by Plaintiffs as a person likely to have discoverable information that Plaintiffs may use in support of their claims or defenses; and

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<sup>7</sup> Doc. 72.

<sup>8</sup> Fed. R. Civ. P. 26(a)(1)(A)(ii).

<sup>9</sup> Doc. 78.

b. Identified certain documents as responsive to Plaintiffs' Fed. R. Civ. P. 26(a)(1)(A)(ii) obligation to provide "a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses."<sup>10</sup>

A "list of documents, electronically stored information and tangible items" identified in the Fourth Supplement is attached as "Exhibit D."

7. On July 3, 2020, Plaintiffs filed a Fifth Supplement to Plaintiffs' Initial Disclosure ("Fifth Supplement"),<sup>11</sup> which:

a. Identified four persons not previously identified by Plaintiffs as persons likely to have discoverable information that Plaintiffs may use in support of their claims or defenses; and

b. Identified certain documents as responsive to Plaintiffs' Fed. R. Civ. P. 26(a)(1)(A)(ii) obligation to provide "a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses."<sup>12</sup>

A "list of documents, electronically stored information and tangible items" identified in the Fifth Supplement is attached as "Exhibit E."

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<sup>10</sup> Fed. R. Civ. P. 26(a)(1)(A)(ii).

<sup>11</sup> Doc. 88.

<sup>12</sup> Fed. R. Civ. P. 26(a)(1)(A)(ii).

To assist the Court and the parties in assuring that all good faith disclosure requirements of the Federal Rules of Civil Procedure have been met and are fully satisfied:

ORDERED:

1. Plaintiffs shall prepare and file a document log, to be designated as “Exhibit 1” and attached to Plaintiffs’ response to this Order, identifying each and every document, item of electronically stored information, and tangible thing identified in “Exhibits A–E” attached. The document log shall include the date upon which the identity and subject matter or content of each document, item of electronically stored information, and tangible thing disclosed in “Exhibits A–E” became known to Plaintiffs.

2. Plaintiffs shall identify by title and general description, each document, item of electronically stored information, or tangible thing: (a) known to them and in their possession, custody, or control; or (b) known to them but not in their possession, custody, or control, that they may use to support their claims or defenses asserted in this action, but not identified in “Exhibits A–E” attached, to be designated as “Exhibit 2” and attached to Plaintiffs’ response to this Order. Each item identified in “Exhibit 2” shall include the date upon which the identity

and subject matter or content of the document, item of electronically stored information, or tangible thing became known to Plaintiffs.

3. True and accurate copies of all documents, electronically stored information, and tangible things to be identified in Plaintiffs' "Exhibit 1" and "Exhibit 2" shall be filed with the Court and served upon Defendants on or before **August 17, 2020.**

DATED this 3<sup>rd</sup> day of August, 2020.

  
SAM E. HADDON  
United States District Judge

## **EXHIBIT A**

- Police Reports and videos/DVDs;
- Statements by Bailey Murphy;
- Calendar of Events;
- Text messages;
- Voice mail messages;
- Photographs;
- Schematic layout of The Metlen;
- Publication of Police News 3/31/16 – 4/7/16; 5/5/16 – 5/11/16;
- Articles of publication regarding The Metlin;
- 2015 UMW homecoming information;
- Cashier/Income information from The Metlen 9/26/15;
- Day sheets from The Metlen 9/26/15 and 9/30/15;
- Department of Revenue certificates and accolades;
- Department of Revenue documents and filings;
- Surveillance video from The Metlen 4/29/16;
- Dillon Police Department Policy and Procedure Manual;
- Arrest Records – Sydnee Clairmont;
- Arrest Records – Michael Dobbins;
- Medical Records – Phyllis Saxon;
- Medical Records – Sandra Iverson;
- Affidavit – Michael Dobbins;
- Alcohol Compliance Certificates and Confirmations;
- Videos taken at The Metlen Hotel;
  - I. Incident
  - II. Arrest
  - III. Officers at The Metlen Hotel
- Excerpts – Officer Alvarez Body Camera Recording;
- Excerpts – Officer Horrocks' Body Camera Recording;
- Court filings;
- Trial Exhibits;
- Transcripts;
- Attorney Client Ledger Reports;
- Demonstrative Exhibits;
- Documents and Items identified by other parties;



- Documents and Items produced during disclosure and discovery; and
- Documents and Items needed for authentication, foundation, rebuttal and impeachment.<sup>13</sup>

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<sup>13</sup> See Doc. 18 at 34–36.

## **EXHIBIT B**

- Statement by Samantha Hubbard; and
- Statement by Alicia Girard Webster.<sup>14</sup>

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<sup>14</sup> See Doc. 66 at 2.

## **EXHIBIT C**

- Written statements by Hubbard and Webster;
- Citations;
- Police Reports;
- Videos/DVDs; and
- Additional witness statements, and the like.<sup>15</sup>

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<sup>15</sup> See Doc. 72 at 2–3.

## **EXHIBIT D**

- Investigation records, documents, statements, waivers, citations and affidavits; employment records; regarding Samantha Hubbard;
- Investigation records, documents, statements, waivers, citations and affidavits; employment records; regarding Alicia Webster;
- Investigation records, documents, statements, waivers, citations and affidavits regarding Emily Earl;
- Investigation records, documents, statements, waivers, citations and affidavits regarding Grace Bowen; and
- Investigation records, documents, statements and affidavits; employment records; regarding Ross Reed.<sup>16</sup>

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<sup>16</sup> See Doc. 78 at 5–6.

## **EXHIBIT E**

- Court filings regarding Ashlee Mussard;
- Trial Exhibits and Transcripts regarding Ashlee Mussard;
- Arrest Records, Police Reports and videos/DVDs regarding Ashlee Mussard;
- Medical Records regarding Ashlee Mussard;
- Text messages, Facebook messages, Emails, Correspondence, and Voicemail messages regarding Ashlee Mussard;
- Photographs regarding Ashlee Mussard; and
- Applicable statutes and administrative rules regarding Ashlee Mussard.<sup>17</sup>

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<sup>17</sup> See Doc. 88 at 3.